

**MIAMI-DADE COUNTY
FLORIDA**

Department of Business Development

COMMUNITY WORKFORCE PROGRAM (CWP)

PARTICIPATION PROVISIONS

This Contract/Work Order has a ____% Community Workforce Goal

**Department of Business Development (DBD)
175 N.W. 1ST Avenue, 28th Floor
Miami, Florida 33128
Phone: (305) 349-5960 Fax: (305) 349-5915**

A copy of the governing Ordinance 03-237 (formerly 03-1) and Administrative Order 3-37 as amended under resolution R-1248-03, can be obtained from the Clerk of the Courts at the Stephen P. Clark Building, 111 NW 1st Street, Suite 17-202, Miami, Florida or via the Internet at www.co.miami-dade.fl.us/govaction/searchleg.asp

**Revised
November 2003**

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I. DEFINITIONS:

A. Capital Construction Contract means the building and or improvement of a specific fixed asset as approved in the Capital Budget or, open contract infrastructure work where the individual work orders are distributed throughout the County.

B. Construction Trade Work means skilled laborers.

C. Contract means a contract for Capital Construction.

D. Department means department or agency administering a Capital Construction Contract to which a local workforce goal has been applied.

E. Designated Target Area (DTA) means any geographic area of Miami-Dade County designated as an Empowerment/Enterprise Zone, any geographic area of Miami-Dade County designated by the Board of County Commissioners as a Targeted Urban Area (TUA), Community Development Block Grant (CDBG) Eligible Block Group or Focus Area.

F. Enterprise Zone means a geographic area of Miami-Dade County designated as an Enterprise Zone or a Satellite Enterprise Zone pursuant to the Florida Enterprise Zone Act of 1994, as amended.

G. Empowerment Zone means a geographical area of Miami-Dade County designated by the federal government as an empowerment zone.

H. CDBG Eligible Block Group means a geographical area whose residents are lower to moderate income.

I. Focus Area means a geographical area slated for economic revitalization.

J. Job means a specific trade such as painting, electrical, plumbing, etc., in which a person hired by the contractor or subcontractor as part of the workforce used towards a workforce goal compliance and which the length of the job may aggregate to less than 120 days due to the nature of the job. Jobs that will be less than 30 days for completion may not be considered towards compliance with a workforce goal.

K. Labor Force means individuals (the workforce) that may count towards compliance to a workforce goal.

L. Labor Work means unskilled construction work.

M. Local Workforce Goal means a requirement that a percentage of the workforce performing construction trades work and labor under a Capital Construction Contract/Work Orders be residents of a Designated Target Area.

N. New Hire means any individual meeting the requirement of resident as defined below, employed by the contractor or subcontractor and on the contractor's or subcontractor's payroll, pursuant to the County's approval of the Workforce Plan by the contractor or subcontractor to perform any construction trades work or labor under a contract to which a local workforce goal has been applied, and who remains employed by the contractor or subcontractor and performs the job as listed and approved on the contractor's or subcontractor's workforce plan to include any approved revisions to the workforce plan, for a minimum duration of one hundred twenty (120) days or the length of the job whichever is less.

O. Resident means a person who has resided in Miami-Dade County in any designated target area the past year (12 months).

P. Review Committee or RC means the committee established by the County Manager to review proposed contracts for the application of local workforce goals.

Q. Scope of Services or Scope of Work means the work to be performed under a Contract.

R. Subcontractor means any person, firm, entity, or organization at any tier, other than the employees of the contractor, performing construction trade work or labor under a Contract to which a local workforce goal has been applied pursuant to the governing ordinance. This term shall include employment agency furnishing personnel to a contractor or subcontractor.

S. Targeted Urban Area means a geographical area of Miami-Dade County that has been designated by the County Commission as a Targeted Urban Area under Section 30A-129 of the Code.

T. Work means the construction and services required by the contract including all labor, materials, equipment and services to be provided by the contractor to fulfill the contractor's obligations. The work may constitute the whole or a part of the contract.

U. Workforce Plan or Plan means a plan delineating the number and category of administrative, construction trades and labor personnel necessary to perform the work under a Capital Construction Contract to which a local workforce goal has been applied, and the proposed steps that will be taken to meet the goal. The Plan shall be organized by trade and indicate the number and category of positions already filled and the number and category of positions that require recruitment; the anticipated date that the hiring process will be initiated; the deadline for referrals; the anticipated position commencement date; and the duration of the position.

V. Workforce Development Organization or WDO means an organization providing construction trades skills training or providing skills training that is recognized and accepted by all federation members of the respective trade, who are instrumental in its design and provides certification

after participation, or apprenticeship training or any construction related training. The firm must be registered with the Department of Business Development (DBD).

W. Workforce Recruitment/Referral Organization or WRO means an organization providing qualified construction employment recruitment/referral services and employability skills training, including application process, interviewing, and appropriate attire. The organization must be registered with the Department of Business Development (DBD).

X. Worker Training Program or WTP is a certified training program, technical school, apprenticeship program or other such construction industry related training program.

Y. Work Order means issuance of specific work based on an open work contract with fixed unit prices.

II. GENERAL INFORMATION:

Except where state, or federal laws or regulations mandate to the contrary, these provisions shall apply to all such Capital Construction Contracts/Work Orders entered into and issued by Miami-Dade County, its departments and agencies including the Public Health Trust or funded in whole or in part by County funds or with private funds on County property, for public improvements located in Designated Target Areas.

III. PROGRAM OBJECTIVE:

The Community Workforce Program objective is to ensure the utilization of workers living in Designated Target Areas (DTAs) in which a capital construction project is located. It is an attempt to improve the economic condition of all traditionally underserved communities, within employment figures exceeding the national average. Additionally, it is an effort to ensure that public dollars for capital improvement projects benefit residents of the affected communities.

A percentage of the workforce performing construction trades and labor work under this contract must be residents of Designated Target Areas for a minimum period of twelve months (one (1) year) in accordance with Miami-Dade County's Community Workforce Program governing ordinance and administrative order.

These provisions are subject to changes and corrections. The awarded contractor agrees to comply with any changes to this document and any amendments to the governing Ordinance and respective Administrative Order during the life of this contract.

IV. GOAL COMPLIANCE:

It shall be the responsibility of the Contractor to maintain compliance with the Local Workforce Goal utilizing direct employment or utilizing employment through the subcontractor's workforce.

- i. If the primary contractor and the subcontractor, through written mutual agreement, agree that any portion of the workforce goal will be achieved through the subcontractor, then the subcontractor shall have the right to self recruit or select and utilize qualified WDOs or WROs. The primary contractor, however, retains full responsibility for meeting the established Workforce Goal.
- ii. Persons designated in the approved Workforce Plan as already on the contractor's (or on any proposed subcontractor's) payroll at the time of approval who reside in the Designated Target Area in which the public improvement is located and who perform any construction trades or labor work of the awarded contract shall count towards meeting the local workforce goal. If additional workforce is needed to meet the goal, the contractor or any proposed subcontractors must recruit the required workforce from the DTA in which the public improvement is

located. If the contractor or proposed subcontractors are unable to locate the remaining required workforce in part or in whole and provide sufficient written documentation to DBD that the required labor force was not available in the DTA in which the project is located, the contractor and any proposed subcontractors may count persons on their payroll that reside in another DTA or recruit from the nearest DTA to the location of the public improvement. Failure to submit said documentation may result in the contractor not meeting the Workforce Goal. Penalties and sanctions will apply and shall be enforced for all violations to the CWP.

- iii. Each New Hire residing in a Designated Target Area who is hired to a position designated in the approved Workforce Plan and who performs construction trades work or labor work of the contract for a minimum duration of one hundred twenty days or the duration of the job may also count towards meeting the goal, provided the first priority in hiring for such position was given to persons residing in the Designated Target Area in which the public improvement is located.
- iv. Notwithstanding anything to the contrary above, the contractor may in whole or in part, be relieved of the requirements of the Community Workforce Ordinance and the respective Administrative Order if such contractor can demonstrate to DBD that it has utilized its best efforts to achieve a goal, including but not limited to, documented evidence (i.e. telephone/fax logs, etc.) of attempted recruitment through all DBD registered WDOs and WROs, Miami-Dade County's Clearinghouse and other DBD available workforce databases .

The following shall count towards compliance with a local workforce goal.

- Submit Workforce Plan to the issuing/user department within fifteen (15) days of Notice of Award.
- Obtain approval of the Workforce Plan from the Department of Business Development (DBD) within 10 days of receipt from the issuing/ user department.
- Commenced work on the contract/project/work order after receipt of an approved Workforce Plan and issuance of Notice to Proceed.
- Received approval from DBD of any and all changes made to the Workforce Plan.
- Compliance with the established Workforce Goal in accordance with the established governing legislation.
- Submit Monthly Employee Report to DBD

V. WORKFORCE PLAN:

The Contractor/Subcontractor, or its qualified WDO or WRO shall submit to DBD through the issuing department, a Workforce Plan outlining how the goal will be met within fifteen (15) days of notification of award

The Plan shall specify at a minimum:

1. The total number of persons that will be used by the contractor (as well as by all Subcontractors) to perform all of the construction trades and labor work of the contract, broken down by trade and labor category.
2. Minimum qualifications for each category.
3. Number of persons to be utilized in each category.
4. Identify by name, address and trade category of all persons proposed to perform work under the contract currently on the contractor's (or on any proposed Subcontractor's) payroll who reside in any Designated Target Area. Two (2) forms of proof of residency are required one of which must be a picture ID. Acceptable forms of proof includes: Voters register, Driver's license, State of Florida ID, Evidence of receipt of unemployment benefits, utility bill.
5. The total number of positions required by the Contractor (or by any proposed Subcontractors) to perform the construction trades and labor work under the contract and shall indicate the trade categories and minimum qualifications therefore of all such positions.

The Workforce Plan must be submitted to DBD by the issuing/user department. The plan must be reviewed and approved by DBD. The issuance of a Notice to Proceed does not indicate an acceptance of the Workforce Plan. The issuance of a Notice to Proceed prior to DBD's approval of any Workforce Plan submitted shall not be deemed a waiver of the requirements that a Plan be submitted and be approved.

A Contractor who does not have a plan for such contract approved by DBD at twenty-five percent (25%) completion of the contract may be subject to sanctions including, but not limited to, stop payment. In the event that at the contract completion the contractor does not achieve the established local workforce goal, liquidated damages equal to a minimum of \$1,500.00 per position or the wages that would have been payable for such a position had the person(s) been hired for the position as listed on the approved workforce plan or any revisions to the workforce plan, which is greater, shall be assessed in accordance with the governing ordinance. Funds so obtained by the County shall be applied to the cost of the Community Workforce Program.

An updated Plan shall be submitted to DBD on a monthly basis. In the event that during the contract time a New Hire or a person identified in the Plan as already on the contractor(s) or subcontractor(s) payroll to meet the local workforce goal is replaced, the Contractor/Subcontractor is required to immediately contact DBD and notify DBD of the replacement. Notwithstanding anything to the contrary above, the contractor may in

whole or in part be relieved from the requirements of the governing ordinance and respective A.O. if such Contractor can demonstrate to DBD that it has utilized its best efforts to achieve the goal in accordance with the prescribed Administrative Order

VI. WDO and WRO REGISTRATION:

Contractors/Subcontractors may self-recruit, or recruit through MDC Clearinghouse utilize a WDO or WRO to locate workforce to meet their CWP goal. DBD shall register WDOs and WROs, and shall maintain and publish an updated list of WDOs and WROs, identifying areas of expertise and services. DBD shall collect, assemble, and verify information needed to establish eligibility for such registration. To register as a WDO or WRO contact DBD at (305) 349-5960 or visit DBD's website at www.miamidade.gov/DBD.

VII. COMPENSATION TO WDO or WRO FOR PLACEMENT OF NEW HIRE:

The following applies to all contracts to which a local workforce goal has been applied.

- i. WDOs may be eligible to receive a fee of \$750 for the collective training, referral and placement, of each New Hire from a Designated Target Area on such contracts.
- ii. WDO/WROs may be eligible to receive a fee of \$500 for the collective referral and placement of each New Hire from a Designated Target Area on such contracts
- iii. These fees are contingent on the New Hire remaining employed for a minimum of one hundred twenty (120) days or the duration of the project, whichever is less.

VIII. MONITORING:

The County shall maintain staff for the purpose of monitoring compliance with the Community Workforce Goal. Assigned individuals will be on site quarterly to review the progress towards meeting the local workforce goal. The contractor, WDO, WRO, and all subcontractors performing work on a contract to which a local workforce goal has been applied shall maintain, and make readily available, all records pertaining to employment by the contractor and Subcontractors on the contract. The contractor shall submit monthly reports itemizing, by trade, all New Hires performing work under the contract including, but not limited to the trade, the time period the work was performed and the permanent residence. DBD shall conduct payroll audits of the contractor's monthly certified payrolls itemizing, by respective trades, all New Hires performing work under the contract, time periods during which work was performed, and permanent residence addresses.

IX. ACCESSING INCENTIVES:

It is the County's plan to encourage contractors to access incentives available in Designated Target Areas. Included are incentives established for Enterprise/Empowerment Zones, and Targeted Urban Areas such as the Work Opportunity Tax Credit, Business Registry Incentives, and Qualified Targeted Industries Incentives (QTI), and other applicable incentives. A contractor, WDO or WRO, is responsible for applying for any incentive for which they may be eligible. The contractor may utilize economic and business development organizations such as the Beacon Council, Empowerment Trust, Miami-Dade County's Office of Community and Economic Development (OCED), WDOs, WROs as well as other related organizations to access such incentives.

X. SANCTIONS FOR CONTRACTUAL VIOLATIONS:

Notwithstanding any other penalties or sanctions provided by law, a contractor's violation of or failure to comply with this ordinance or this Administrative Order may result in the imposition of one or more of the following sanctions:

- i. The suspension of any payment of part thereof until such time as the issues concerning compliance are resolved; and/or
- ii. Work stoppage; and/or
- iii. Termination, suspension, or cancellation of the contract in whole or part; and
- iv. In the event that at contract completion the contractor does not achieve the established local workforce goal, liquidated damages not less than \$1,500.00 per position, or by the wages that would have been payable commiserate with such a position had the person(s) been employed by the contractor as listed on the approved workforce plan to include all approved revisions to the workforce plan, whichever is greater, shall be assessed in accordance with the governing ordinance. Funds so retained by the County shall be applied to the costs of the Community Workforce Program.
- v. In the event contractor attempts to comply with the provisions of the governing ordinance through fraud, misrepresentation, or material misstatement, or is found after a hearing to have discriminated in violation of Article VII of Chapter 11A of the Code of Miami-Dade County, the County shall, whenever practicable, terminate the contract or require the termination or cancellation of the subcontract for the project on which the contractor committed such acts. In addition, and as a further sanction, the County Manager or his or her designee may impose any of the above-

stated sanctions on any other contracts or subcontracts the contractor has on County projects. In each instance, the contractor shall be responsible for all direct and indirect costs associated with such termination or cancellation including attorney's fees and costs. The contractor may also be subject to debarment.

- vi. The County Manager or his or her designee may issue a Stop Payment against current and future payments on a contract where the contractor who has not submitted or does not have a DBD approved Workforce Plan at contract commencement or at the 25 percent (25%) completion point for such contract.

XI. APPEALS PROCESS

- A. Upon a determination of non-compliance with the requirements of Ordinance 03-237, Administrative Order 3-37 as amended under resolution R-1248-03, or implementing bid documents, which decision will be final unless appealed, DBD shall notify the affected party, in writing, setting forth the reasons for the determination and advising of this appeals process.
- B. The affected party may appeal the determination by filing a written appeal with the Director of DBD within fifteen (15) days of receipt of the notice.
- C. DBD shall forward all written appeals to the RC. The RC or a committee thereof appointed by the chairperson shall hear all appeals and forward recommendations regarding the appeal to the County Manager.
- D. Decisions by the County Manager shall be final unless the County Commission agrees in its sole discretion upon request by the affected party to review the County Manager's decision.
- E. This appeals process does not apply to appeals of decisions made pursuant to contract documents implementing the Community Workforce program when such contract documents provide procedures for appeals of such decisions

CONTRACT NO.: _____

Workforce Goal: _____%

Workforce Plan
Monthly Employee Report (MER)

MDC/DBD

Reporting Period: From: _____ to _____

Reporting Period: From: _____ To: _____
Percentage of Workforce Goal met: _____%

													Workforce Recruited From				DTA			New hires this period Put an "X"
Employee SS#	Last Name	First Name	Address	City	Zip Code	Proof of Residency (specify types)	Classification hired for	Total hours worked - this period	Gross Earning - prior month	Ethnicity	Date of Hire	End date	CH	WRO(insert name of WRO)	WDO (insert name of WRO)	Self-Recuit	1	2	3	
Primary Contractor																				
Subcontractor																				
Subcontractor																				
Subcontractor																				
Subcontractor																				

Executed by: _____
Signature of Affiant
Sworn before me: _____ Day of _____ 200_
Printed Name of Affiant
Notary Public

DTA in which employee resides:
1= Recruited from DTA in which project is located.
2= Recruited from nearest DTA in which the project is located.
3= Recruited from another DTA other than 1 or 2.

Legend:
WDO= Workforce Development Organization
WRO= Workforce Recruitment/Referral Organization
CH= Clearinghouse

CONTRACT NO.: _____

Workforce Goal: ____ %

Workforce Plan
Monthly Employee Report (MER)

MDC/DBD

Reporting Period: From: _____ to _____

It is located

Legend:
WDO= Workforce Development Organization
WRO= Workforce Recruitment/Referral Organization
CH= Clearinghouse

Form: CWP-02
Revised 11/03

Contract/Work Order No.: _____
 WORKFORCE GOAL: ____%

Workforce Plan

MDC/DBD

(A)	(B)	(C)	D	E	F	G	H	I
COMPANY NAME: Primary Contractor (PC) must be listed on the first line then list the Subcontractors(SB)	Trade	Total positoins assigned to project	# of positions in (C) filled by staff currently on payroll	# of positions to be filled to meet CWP goal	GENERAL LABOR (GL) OR TRADE SKILLED (T). If Trade skills required, specify level of training and license required if applicable)	Anticipated start date	Duration of position	Recruitment for position to begin: (date)

*** The following must be included as part of the Workforce Plan:**

List of all Workforce (laborforce) already on payroll that will be used towards complaine with the Workforce Goal

Proof of existing Workforce residency for the past year (12 months): Address, Social Security Number, Picture ID (Drivers license, State issued ID)

Project/Work they will be performing and the duration of that job.

Notes: -Workforce is required to be on the job for a minimum of 120 days or the length of the job whichever is less, in order to qualify toward compliance with a Workforce Goal

in accordance with Ordinance 03-237 (formerly 03-1).

-Workforce must meet the requirements as outlined in the governing legislation.

-You may make copies of this form or attach additional sheets if needed.

Revised 11/03

Form: CWP-01

Contract/Work Order No.: _____
WORKFORCE GOAL: ____%

Workforce Plan

MDC/DBD

PAYROLL

(For Contractor's Optional Use; See Instruction, Form WH - 347 Inst.)

NAME OF CONTRACTOR OR SUBCONTRACTOR				ADDRESS															
PAYROLL NO.		FOR WEEK ENDING			PROJECT AND LOCATION					PROJECT OR CONTRACT NO.									
(1) NAME, ADDRESS, AND SOCIAL SECURITY NUMBER OF EMPLOYEE	(2) NO. OF w/holding Exemptions	(3) WORK Classifications	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY/hr.	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK	
			O										FICA	WITH - HOLDING TAX			OTHER		TOTAL DEDUCTIONS
			HOURS WORKED EACH DAY OVERTIME(O) / STRAIGHT (S)																
			O																
			S																
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I, _____

NAME OF SIGNATORY PARTY

do hereby state:

(1) That I pay or supervise the payment of the persons employed by _____

_____ on the _____

(CONTRACTOR OR SUBCONTRACTOR) (BUILDING OR WORK)

_____ ; that during the payroll period commencing on the _____

day of _____, 19____, and ending the ____ day of _____, 19____

all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said

_____ from the full

(Contractor or subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the

full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29

(F R Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948,63 Stat. 108, 72 State. 967; 76 Stat. 357, 40 U.S.C. 276c), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and

complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage

rates contained in any wage determination incorporated into the contract; that the classification set forth

therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program

registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship Training, United

States Department of Labor , or if no such recognized agency exists in a State, are registered with the Bureau

of Apprenticeship and Training, United States Department of Labor.

(4) That:

**(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS
OR PROGRAMS**

- In addition to the basic hourly wage rates paid to each laborer or mechanic llisted in the above referenced payroll, payments of fringe benefits as listed

in the contract have been or will be made to appropriate programs for the benefit of such employees, except as

noted in Section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

- Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than

EXCEPTION (CRAFT)	EXPLANATION
REMARKS	

NAME AND TITLE	SIGNATURE
THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION SEE SECTION 1001 OF TITLE 18 AND SEC 231 OF TITLE 31 OF THE U.S. CODE.	